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Attorney for Plaintiff Kevin Washington

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

Kevin Washington an individual and
minority owner of CryptoWatt
Investment Partners, LLC sole member
of CyproWatt Mining, LLC

Plaintiff,
v.

Matthew Brent Goettsche an individual
and majority owner of CryptoWatt
Investment Parnters, LLC sole member
of CryptoWatt Mining, LLC

Defendant.

Cause No.: CV-20-2-BU-BMM-KLD

**REPLY BRIEF IN SUPPORT OF
EMERGENCY MOTION TO
APPOINT A RECEIVER**

At the hearing of plaintiff Washington's Emergency Motion to Appoint a Receiver before this Court on January 10, 2019, the Court invited defendant Goettsche to submit a proposed order for the Court to consider in conjunction with

the proposed Order to Appoint Receiver filed by plaintiff Washington prior to the hearing. Last night, defendant Goettsche provided the Court with a “redline” version of a proposed order complete with argumentative comments of defendant’s counsel in the right margin and a nine page brief in “Response to Plaintiff’s Motion for Appointment of Receiver.” These pleadings require a reply by defendant Washington.

Initially it should be clarified that the “redline” proposed order submitted by defendant is a DRAFT document provided by plaintiff Washington’s counsel to defendant’s counsel on December 29, 2019. Plaintiff’s counsel finalized this DRAFT document and filed it in the State Court action. Prior to hearing in State Court, Defendant removed this action to this Court on January 7, 2020. Therefore, Plaintiff’s counsel further edited and finalized the proposed order for consideration by this Court. Plaintiff filed his proposed order to appoint receiver in this Court on January 8, 2019 and provided a Word document version to this Court on January 9, 2019. This clarification will ensure the Court is considering the correct proposed order to appoint receiver submitted by each party.

In his response brief, defendant Goettsche asserts a factual narrative in support of his proposed order to appoint a receiver-almost none of which was presented to this Court at the hearing. Defendant Goettssch argues, based on no evidence in the record, that the receiver order should not be used to make an “end-

run” around the operating agreements of CryptoWatt Investment Partners, LLC. Defendant Goetsche asserts that plaintiff Washington’s proposed order to appoint a receiver would likely result in a constructive taking of defendant Goetsche’s private property without just compensation. Defendant Goetsche’s concerns are unfounded.

Proposed Receiver, J. Richard Orizotti testified at the hearing that he had assisted in the preparation of plaintiff Washington’s proposed order appointing receiver. Mr. Orizotti further testified and that he believed plaintiff’s proposed order contained the provisions necessary to allow him to perform his duties as Receiver to operate and manage Cryptowatt’s Bitcoin mining facility at Butte and thereby preserve and protect this very valuable asset. Defendant’s counsel agreed that Mr. Orizotti is qualified to be appointed Receiver. Mr. Orizotti’s efforts as authorized in plaintiff’s proposed order appointing receiver will protect the investments of planitff Washington and defendant Goetsche.

Defendant Goetsche’s proposed order eviscerates the authority of the Receiver to operate and manage the business in an efficient manner in the best interests of both owners. Moreover, its proposed provisions making the appointment of the Receiver temporary until such time as defendant Goetsche is available to retake the reins of CryptoWatt is not supported by the evidence. At hearing, Richard B. Tabish testified that defendant Goetsche’s release from

incarceration would not allow CryptoWatt to continue operating because Tabish's company, FX Solutions, Inc. would not contract with defendant Goettsche (CryptoWatt) to operate the facility due to defendant Geotsche's current unpaid balance of approximately \$800,000. Mr. Tabish also testified that companies that would provide essential electric power to the CryptoWatt facility would also refuse to contract with Geotsche (CryptoWatt) due to a lack of trust.

Plaintiff's proposed Order Appointing Receiver provides the best opportunity for CryptoWatt to restart operations, put 32 employees of FX Solutions, Inc. back to work and protect this very valuable asset of both owners from almost immediate destruction of substantial value. Plaintiff Washington respectfully requests the Court to Order the Appointment of J.Richard Orizotti as Receiver of CryptoWatt (CryptoWatt Investment Partners, LLC and CryptoWatt Mining, LLC. collectively) with the power, authority and duties as described in plaintiff Washington's proposed Order Appointing Receiver.

DATED this 13th day of January, 2020.

KRIS A. MCLEAN LAW FIRM, PLLC

/s/Kris A. McLean
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Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of January 2020, the foregoing document was served on the following individuals by ECF filing:

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